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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BOARD OF PATENT APPEALS AND INTERFERENCES**

Appellant: Darren E. Pieczynski  
Serial No: 10/066,267  
Filed: 02-02-2002  
Group Art Unit: 3643  
Examiner: Kurt C. Rowan  
Title: ICE FISHING TIP-UP DISPLAY

**REPLY BRIEF**

In response to the Examiner's Answer mailed June 2, 2006, applicant files the present Reply Brief with respect to the following statements in the Examiner's Answer.

Statement at page 3 of Examiner's Answer: "Applicant argues that reflective and visible are not synonymous, but in this art, they are since what one sees when viewing an object is the light reflected back from the object."

In contrast, applicant respectfully submits that:

- 1) if reflective and visible are synonymous, why would scientists and artisans use these two different terms? Statement at page 3 of Examiner's Answer: "
- 2) the Examiner's language "but in this art, they are" concedes that the terms are not synonymous in other arts;
- 3) the meaning of these scientific terms does not change in this particular art, nor to suit a specious rejection of a claim;
- 4) when one views the sun or another star, one is not seeing light that is "reflected back from the object";
- 5) what one sees when viewing an object it is not necessarily the light being reflected back from the object, but rather the object may be viewed because of a lighter contrasting background, e.g., a dark tree at night against a moonlit lake.

**Statement at page 3 of Examiner's Answer: "As to the reflective and non-reflective surfaces of a mirror lens, both surfaces are reflective, it is just that the 'reflective' surface reflects much more of the incident light than the 'non-reflective' surface."**

In contrast, applicant respectfully submits that the CAFC as well as those persons skilled in the arts do not use the term "reflective" as being synonymous with "visible".

For example, see the patent language "a mirror lens having a reflective outer surface and a non-reflective rear surface, the mirror lens comprising a mirror body which terminates in an oval perimetral edge, the edge surrounds the reflective surface and the non-reflective surface of the mirror lens,..." Roscoe, Inc. v Mirror Lite Company, 304 F.3d 1373 (Fed Cir 2002). (Underscoring added for emphasis).

**Statement at page 4 of Examiner's Answer: "In this case, the knowledge is generally available to one of ordinary skill in the art."**

In contrast, applicant respectfully submits that the Final Rejection does not allege that "the knowledge is generally available to one of ordinary skill in the art", nor state any proof or support for such allegation.

**Statement at page 4 of Examiner's Answer: "The statement that it is illogical to maintain that a person skilled in the art would wish to have a remote power source when the power source is local within the waterproof sleeve of Muenchow is wrong since to change the power source, which has to be done more in cold weather, one skilled in the art would prefer to merely unplug one power source and plug in another rather than disassemble a waterproof sleeve to change the battery."**

In contrast, applicant respectfully submits that applicant's correct statement in context appears at page 13 of the Appeal Brief as follows:

"Appellant respectfully submits that the person skilled in the art would have no motivation or desire to provide Muenchow with a remote power source as shown by Eppley for the purpose of changing the power source without having to disassemble the enclosure. Indeed, such a combination of teachings would distort Muenchow which teaches away from such a remote power source. It is illogical to maintain that the person skilled in the art would wish to have a remote power source when the power source is local within the waterproof sleeve 35 of Muenchow."

In further contrast, applicant respectfully submits the Examiner's Answer statement makes no

sense because the Muenchow power source is Muenchow battery 31, which when substituted in the Examiner's Answer statement reads "(T)he statement it is illogical to maintain that a person skilled in the art would wish to have a remote battery when the battery is local within the waterproof sleeve of Muenchow is wrong since to change the battery, which has to be done more in cold weather, one skilled in the art would prefer to merely unplug one battery and plug in another rather than disassemble a waterproof sleeve to change the battery."

Further, applicant submits it would be contrary to the teaching and purpose of Muenchow to modify its enclosed local power source in exchange for the remote power source as shown in Eppley et al. This flies in the face of the Muenchow teaching.

**Statement at page 4 of Examiner's Answer: "The definition given on page 11 is not totally correct since some light can pass and some can be reflected which can be noted by reversing ones glasses and looking at the lens, some light passes through and some light is relected, hence one can see their reflection in the glasses."**

In contrast, respectfully submits that page 11 of the Appeal Brief states:

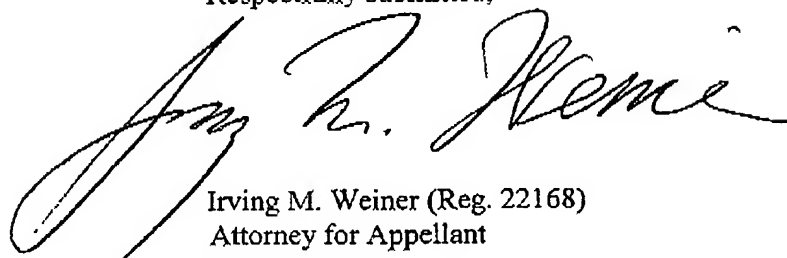
"First, it is respectfully submitted that the final OA confuses 'visibility' with 'reflectivity'.

To 'reflect' means: to prevent passage of and cause to change direction, as a mirror reflects light; to bend or fold back; to throw back light or sound. See [www.m-w.com/dictionary/reflection](http://www.m-w.com/dictionary/reflection)."

In further contrast, applicant respectfully submits that it is improper for the Examiner to be his own lexicographer.

Favorable consideration and reversal of the Final Rejection are earnestly requested.

Respectfully submitted,

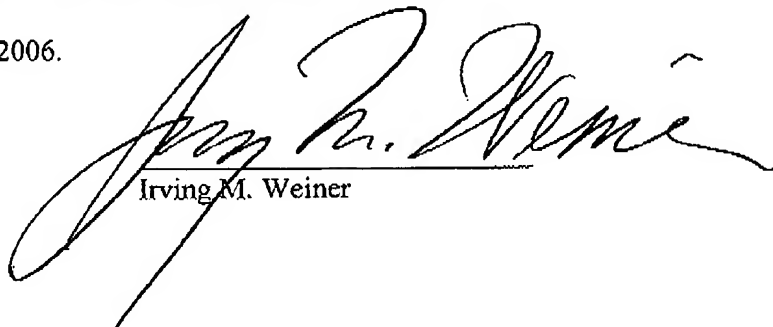


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Certificate of Facsimile

I hereby certify that the foregoing Reply Brief was sent to the Commissioner for Patents by  
facsimile to 571-273-8300 on August 2, 2006.

  
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